



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 537,858	03.28.2000	Paul Proost	49674	5522

7390 08.16.2002

Dike Bronstein Roberts & Cushman
Intellectual Property Practice Group
EDWARDS & ANGELL
P.O. Box 9169
Boston, MA 02209

EXAMINER

ROARK, JESSICA H

ART UNIT PAPER NUMBER

1644

DATE MAILED: 08/16/2002

LC

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/537,858

Applicant(s)

PROOST ET AL.

Examiner

Jessica H. Roark

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 25 July 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 15-23.

Claim(s) withdrawn from consideration: _____

Phillip Gambel
PHILLIP GAMBEL, PH.D.
PRIMARY EXAMINER
Tech Center 1600
8/15/02

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).

Continuation of 2. NOTE: the proposed claims reference truncations of SEQ ID NO:2. However, SEQ ID NO:2 as set forth in the Sequence Listing also filed 7/25/02 is not the same as SEQ ID NO:2 of record. In particular, newly proposed SEQ ID NO:2 is only 66 amino acids long, versus 68 amino acids for SEQ ID NO:2 of record. Thus in addition to raising issues with respect to New Matter since proposed SEQ ID NO:2 differs from that of record, it is also not possible to conduct a meaningful search of residues 2-68, etc., of a protein that consists of 66 amino acids.

Continuation of 5. does NOT place the application in condition for allowance because: for the reasons of record since Applicant's arguments address claim limitations not entered.

Continuation of 10. Other:

a) Applicant is reminded of the requirement for formal drawings set forth in section 6 of the Office Action mailed 3/22/02. Subsequent after final amendments which do not address the drawings requirement will not be entered, at least because the proposed amendment would be non-responsive to the drawing requirement of record.

b) It is noted that the proposed amendment directs the cancellation of claims not actually pending (claims 24 and 25) and proposes adding claims which are improperly numbered.